

## Table of Contents

### **Section 1 - Overview**

<b>1.1</b>	<b>Introduction</b>	
A.	District Court Organization .....	1
B.	Authority and Appointment.....	4
C.	Term of Office .....	6
D.	Relationship to Judge and Court Administrator .....	6
E.	Qualifications.....	6
F.	Surety Bond Requirements.....	7
G.	Court Administration.....	8
H.	Prohibition on Practice of Law .....	8
I.	Sources of Michigan Law.....	8
<b>1.2</b>	<b>Role of Magistrate</b>	
A.	Statutory Jurisdiction and Duties.....	15
B.	Other Duties.....	20
C.	Liability/Immunity.....	21
D.	Conduct and Ethical Considerations.....	22
E.	Ancillary Agencies and Community Coordination .....	24
F.	Part-Time Magistrates .....	24
<b>1.3</b>	<b>Rules of Confidentiality</b>	
A.	Confidentiality of Records Generally.....	25
B.	Confidentiality of Probation Records .....	25
C.	LEIN Records .....	28
<b>1.4</b>	<b>Definitions</b> .....	31

## Table of Contents (continued)

### **Section 1 - Overview (continued)**

<b>1.5</b>	<b>Access Issues</b>	
A.	Accommodations .....	43
B.	Foreign Language Interpreters.....	44
C.	Gender and Racial/Ethnic Issues .....	45
<b>1.6</b>	<b>Acknowledgments</b>	
A.	Authority.....	49
B.	Definitions .....	49
C.	Procedure .....	49
D.	Forms .....	50
<b>1.7</b>	<b>Oaths and Affirmations</b>	
A.	Authority.....	53
B.	Procedure .....	53
<b>1.8</b>	<b>Administrative Issues</b>	
A.	Caseflow Management .....	55
B.	Records and Information Management .....	58
C.	Security Management .....	62
D.	Video Proceedings.....	63
<b>1.9</b>	<b>Michigan Association of District Court Magistrates</b>	
A.	History .....	65
B.	Purpose .....	65
C.	Membership .....	65
D.	Newsletter .....	65
E.	Annual Conference .....	65

## Table of Contents (continued)

### **Section 1 - Overview (continued)**

#### **Appendix**

Attorney General Opinions  
Michigan Ethics Opinions  
SCAO Model Policy: Requests for Accommodations

### **Section 2 - Search Warrants**

#### **2.1 Overview**

A. Purpose .....	1
B. Authority and Definitions.....	1
C. Issuance of Search Warrant in OUIL Cases .....	2

#### **2.2 Minimum Standards**

<b>2.2.1 Determining Whether to Issue Search Warrant .....</b>	<b>5</b>
--	----------

##### **2.2.2 Initiating Search Warrant Process**

A. Signature of Prosecuting Official .....	7
B. Neutral and Detached Magistrate .....	7

##### **2.2.3 Contents of Warrant - Descriptions**

A. Place to be Searched.....	9
B. Person to be Searched.....	9
C. Property to be Seized.....	10
D. Administrative Search Warrants .....	12

<b>2.2.4 Property Subject to Seizure .....</b>	<b>13</b>
--	-----------

##### **2.2.5 Search Warrant Requirements for Monitoring Private Conversations**

A. Third Party Monitoring .....	15
B. Participant Monitoring and Participant Recording.....	15
C. Participant Monitoring by Private Citizen.....	15

## Table of Contents (continued)

### **Section 2 - Search Warrants (continued)**

#### **2.2 Minimum Standards (continued)**

##### **2.2.6 Basis for Affidavit**

A. Probable Cause Determination.....	17
B. Affidavits Based on Hearsay Information.....	21
C. Affidavits Based on Results of Preliminary Breath Test .....	22

##### **2.2.7 Verifying the Affidavit**

A. Swearing to Truth of Statements.....	23
B. Signature.....	23
C. Taping the Proceedings .....	23
D. Probable Cause .....	23

##### **2.2.8 Executing the Affidavit and Search Warrant**

A. Affidavit .....	25
B. Knock and Announce .....	26

##### **2.2.9 Filing a Return on an Executed Search Warrant .....**

##### **2.2.10 Issuance of a Search Warrant by Electronic Device**

A. Case Law Authority.....	29
B. Public Act Authority .....	29

##### **2.2.11 Suppression of Search Warrant Affidavits and Returns .....**

#### **2.3 Procedure**

<b>2.3.1 Checklist for Issuing Search Warrant .....</b>	33
<b>2.3.2 Checklist for Issuing OUIL Search Warrant by Electronic Device.....</b>	35
<b>2.3.3 Facsimile Instructions.....</b>	37

## Table of Contents (continued)

### **Section 2 - Search Warrants (continued)**

<b>2.4</b>	<b>Forms</b>	<b>39</b>
------------	--------------	-----------

### **Section 3 - Arrest Warrants**

#### **3.1 Overview**

A.	Purpose .....	1
B.	Authority and Definitions.....	1

#### **3.2 Minimum Standards**

##### **3.2.1 Complaint**

A.	Contents.....	5
B.	Signature Requirements .....	7
C.	Probable Cause.....	7
D.	Filing of Complaint by Private Citizen .....	8

##### **3.2.2 Warrant.....**

A.	Contents.....	11
B.	Executing Complaint and Warrant .....	11
C.	Return on Arrest Warrant .....	12

##### **3.2.3 Interim Bail.....**

A.	Misdemeanor Cases.....	13
B.	Felony Cases.....	14

##### **3.2.4 Warrantless Arrest**

A.	Authority .....	17
B.	Finding of Reasonable Cause .....	17
C.	Plan for Judicial Availability.....	17

## Table of Contents (continued)

### **Section 3 - Arrest Warrants (continued)**

#### **3.2 Minimum Standards (continued)**

##### **3.2.5 Alternatives to Arrest Warrant**

A. Felony Summons .....	19
B. Misdemeanor Summons .....	19

##### **3.2.6 Bench Warrant**

A. Purpose and Authority to Issue .....	21
B. Petitioning for Bench Warrant .....	21
C. Contents of Bench Warrant .....	21

#### **3.3 Procedure**

##### **3.3.1 Generally**

A. Prepare and Authorize Complaint .....	23
B. Prepare Court File .....	23
C. Determine Probable Cause .....	23
D. Issue Warrant.....	23

##### **3.3.2 Misdemeanor Checklist .....**

##### **3.3.3 Felony Checklist .....**

#### **3.4 Forms .....**

### **Section 4 - Bond/Bail**

#### **4.1 Overview**

A. Authority and Purpose .....	1
B. Role of Arresting Agency.....	2
C. Role of Court Staff or Other Agencies .....	2

## Table of Contents (continued)

### **Section 4 - Bond/Bail**

#### **Overview (continued)**

D. Role of Court .....	2
E. Types of Bail .....	3

#### **4.2 Minimum Standards**

##### **4.2.1 Interim Bail Provisions**

A. Felony .....	5
B. Misdemeanor .....	5

##### **4.2.2 Bond Investigation**

A. Available Options.....	7
B. Factors Considered.....	7

##### **4.2.3 Order for Custody or Pretrial Release**

A. Considerations and Statement of Reasons for Custody Order ...	9
B. Considerations for Release.....	11
C. Bail Deposit.....	15
D. Alternative Bond Documents .....	16
E. Crime Victim's Rights.....	17

##### **4.2.4 Appeals and Modifications**

A. Appeals .....	19
B. Modifications.....	19

##### **4.2.5 Termination of Pretrial Release Order**

A. Conditions Met .....	21
B. Conditions Not Met .....	21
C. Disbursement of Money Bail .....	23

## Table of Contents (continued)

### **Section 4 - Bond/Bail (continued)**

<b>4.3</b>	<b>Forms</b>	<b>25</b>
------------	--------------	-----------

### **Appendix**

Bond Disbursement Procedure
Surety Bond Process

### **Section 5 - Misdemeanor/Felony Criminal**

#### **5.1 Overview**

A. Authority and Definitions.....	1
B. Sources of Misdemeanor Law .....	3
C. Extradition and Governor's Warrant .....	6

#### **5.2 Minimum Standards**

##### **5.2.1 Commencing a Case**

A. Methods .....	9
B. Felony .....	9
C. Misdemeanor Non-Traffic and Traffic .....	9
D. Venue .....	10

##### **5.2.2 Felony and Misdemeanor Arraignment**

A. Right to Arraignment.....	11
B. Arraignment Locations.....	11
C. Time Requirements and Plans for Judicial Availability .....	14
D. Arraignment.....	16
E. Bail Requirement.....	18
F. Record Requirements at Arraignment .....	18
G. Victim's Rights at Arraignment .....	19

## Table of Contents (continued)

### **Section 5 - Misdemeanor/Felony Criminal (continued)**

#### **Minimum Standards (continued)**

##### **5.2.3 Court Appointed Attorney**

A. Authority .....	21
B. Join Representation - Multiple Defendants .....	21
C. When Entitled.....	22
D. Application for Indigency .....	24
E. Investigation to Determine Indigency .....	25
F. Waiver of Counsel.....	25
G. Recovering Expense - Misdemeanor.....	26

##### **5.2.4 Failure to Appear - Misdemeanor Traffic**

A. Resident.....	29
B. Non-Resident.....	30

##### **5.2.5 Contested Misdemeanor Traffic Cases .....**

##### **5.2.6 Misdemeanor Pleas**

A. Overview .....	33
B. Record Requirements .....	33
C. Types of Plea .....	34
D. Competency Requirements.....	38
E. Advice of Rights.....	40
F. Determining Accuracy and Basis of Plea.....	43
G. Accepting Plea.....	45
H. Written Plea and Plea by Mail.....	45

## Table of Contents (continued)

### **Section 5 - Misdemeanor/Felony Criminal (continued)**

#### **Minimum Standards (continued)**

##### **5.2.6 Misdemeanor Pleas (continued)**

I.	Withdrawal of Plea .....	46
J.	Appeal of Plea .....	47

##### **5.2.7 Misdemeanor Adjudication**

A.	Presentence Information.....	49
B.	Pretrial/Trial .....	49
C.	Sentencing .....	50
D.	Imposing Jail Term.....	50

##### **5.2.8 Misdemeanor Sanctions**

A.	Authority .....	51
B.	Non-Traffic Misdemeanor Sanctions .....	52
C.	Traffic Misdemeanor Sanctions .....	54

##### **5.2.9 Misdemeanor Appeals**

A.	Appeal from Decision of Magistrate .....	61
B.	Challenging Plea.....	61

##### **5.2.10 Noncompliance with Judgment of Sentence, Traffic Misdemeanor**

A.	Offenses Other than Alcohol and Drugg Offenses.....	63
B.	Alcohol Offenses.....	63
C.	Other Remedies .....	64
D.	Extension to Pay .....	64

## Table of Contents (continued)

### **Section 5 - Misdemeanor/Felony Criminal (continued)**

<b>5.3</b>	<b>Procedures</b>	
<b>5.3.1</b>	<b>Checklist for Appearance in Person</b>	65
<b>5.3.2</b>	<b>Checklist for Appearance by Mail</b>	67
<b>5.4</b>	<b>Forms</b>	69

### **Appendix**

Criminal Penalties/Administrative Sanctions

### **Section 6 -Civil Infraction Traffic**

#### **6.1 Overview**

A.	Authority and Definitions	1
B.	Sources of Civil Infraction Traffic Law	1
C.	Civil Infraction Traffic Offenses	4

#### **6.2 Minimum Standards**

##### **6.2.1 Commencing a Civil Infraction Traffic Action**

A.	Issuing Citation	7
B.	Michigan Uniform Law Citation	7
C.	Proceedings for Non Residents	8

##### **6.2.2 Appearance**

A.	Overview	9
B.	Admission of Responsibility with Explanation, Appearance in Person or By Representation	11
C.	Admission of Responsibility with Explanation, Appearance by Mail	19
D.	Denial of Responsibility	22
E.	Taking Judgments Under Advisement	23

## Table of Contents (continued)

### **Section 6 -Civil Infraction Traffic**

#### **Minimum Standards(continued)**

##### **6.2.3 Failure to Appear**

A. Entering Default Judgment.....	25
B. Setting Aside Default Judgment.....	26
C. Failure to Appear by Plaintiff.....	27

##### **6.2.4 Informal Hearing**

A. Facilities and Environment.....	29
B. Information Sheet.....	29
C. Conducting the Hearing.....	29
D. Complete Case Processing .....	35

##### **6.2.5 Adjudication**

A. Establishing Elements of Traffic Case .....	37
B. Applying Law to Facts .....	42
C. Speeding Offenses.....	46
D. Evidence of Speeding Offenses.....	55
E. Right of Way or Failure to Yield Offenses .....	57
F. Careless and Reckless Driving .....	64

##### **6.2.6 Sanctions**

A. Fines and Costs.....	69
B. Assessments.....	74
C. Treatment, Education, and Rehabilitation Programs.....	74
D. Licensing Sanctions.....	74

## Table of Contents (continued)

### **Section 6 -Civil Infraction Traffic**

#### **Minimum Standards (continued)**

##### **6.2.6 Sanctions (continued)**

E. Abstract .....	77
F. Sanctions Imposed by Secretary of State .....	78
G. Court-Imposed Licensing Sanctions .....	78

##### **6.2.7 Appeals**

A. Authority .....	79
B. Process.....	79
C. Conviction Reversed on Appeal.....	79

##### **6.2.8 Non-Compliance with Judgments**

A. Late Penalty and Collection .....	81
B. Sanctions .....	81

### **6.3 Procedures**

#### **6.3.1 Checklist for Admission of Responsibility with Explanation; Appearance in Person or by Representation .....**

85

#### **6.3.2 Checklist for Admission of Responsibility with Explanation; Appearance by Mail.....**

87

#### **6.3.3 Checklist for Conducting Informal Hearings.....**

89

#### **6.3.4 Script for Informal Hearings .....**

93

#### **6.3.5 Worksheet for Informal Hearings .....**

95

#### **6.3.6 Explanation About Informal Hearings .....**

97

### **6.4 Forms**

### **Appendix**

Michigan's New Speed Law  
Traffic Civil Infraction Fine, Cost, Fees

(rev. 10/03)

## Table of Contents (continued)

### **Section 7 - State and Municipal Civil Infractions**

#### **7.1 Overview**

A. Authority.....	1
B. Definitions .....	1
C. Sources of State and Municipal Civil Infraction Law .....	4

#### **7.2 Minimum Standards**

##### **7.2.1 Commencing a Civil Infraction Action**

A. Issuing Citation.....	7
B. Notice Contents of Citation.....	7
C. Michigan Uniform Law Citation.....	10

##### **7.2.2 Appearance**

A. Overview .....	11
B. Admission of Responsibility with Explanation, Appearance in Person or By Representation.....	13
C. Admission of Responsibility with Explanation, Appearance by Mail .....	19
D. Denial of Responsibility .....	21

##### **7.2.3 Failure to Appear**

A. Entering Default Judgment.....	25
B. Setting Aside Default Judgment.....	26

##### **7.2.4 Informal Hearing**

A. Facilities and Environment.....	29
B. Information Sheet .....	29
C. Conducting the Hearing.....	29
D. Complete Case Processing .....	35

## Table of Contents (continued)

### **Section 7 - State and Municipal Civil Infractions (continued)**

<b>Minimum Standards</b> (continued)	
<b>7.2.5 Adjudication</b>	
A. Establishing Elements of Case .....	37
B. Applying the Law to the Facts .....	39
<b>7.2.6 Sanctions</b>	
A. Fines and Costs.....	41
<b>7.2.7 Appeals</b>	
A. Authority .....	45
B. Process.....	45
<b>7.2.8 Non-Compliance with Judgments</b>	
A. Late Penalty and Collection .....	47
B. Sanctions .....	47
<b>7.3 Procedures</b>	
<b>    7.3.1 Checklist for Admission of Responsibility with Explanation; Appearance in Person or by Representation</b>	51
<b>    7.3.2 Checklist for Admission of Responsibility with Explanation; Appearace by Mail</b>	53
<b>    7.3.3 Checklist for Conducting Informal Hearings</b>	55
<b>    7.3.4 Script for Informal Hearings</b>	59
<b>    7.3.5 Worksheet for Informal Hearings</b>	61
<b>    7.3.6 Explanation About Informal Hearings</b>	63
<b>7.4 Forms</b>	65

## Table of Contents (continued)

### **Section 8 - Small Claims**

#### **8.1 Overview**

A. Purpose .....	1
B. Authority and Definitions.....	1
C. Waiver of Rights.....	5
D. Sessions and Locations.....	5
E. Sources of Law .....	5

#### **8.2 Minimum Standards**

##### **8.2.1 Commencing Small Claims Action**

A. Venue .....	7
B. Filing Action .....	8
C. Service.....	9
D. Appearance.....	12

##### **8.2.2 Processing a Small Claims Action**

A. Pre-Trial Assistance .....	13
B. Scheduling Hearings .....	14
C. Conducting Hearings.....	15
D. Settlement.....	15
E. Default.....	16
F. Judgments.....	16
G. Removal or Transfer .....	17

##### **8.2.3 Post Judgment Proceedings**

A. Appeals.....	21
-----------------	----

## Table of Contents (continued)

### **Section 8 - Small Claims (continued)**

#### **Minimum Standards (continued)**

##### **8.2.3 Post Judgment Proceedings (continued)**

B. Modification or Vacation .....	21
C. Collection of Judgment .....	21
D. Setting Aside Default Judgment .....	23

##### **8.2.4 Adjudication**

A. Establishing Elements of Case	
B. Applying the Law to the Facts - Evaluating the Evidence	
C. Handling Conflict	

#### **8.3 Procedures**

A. Scheduling Trials.....	27
B. Filing and Pretrial Assistance .....	27
C. Preparing for Trial .....	27
D. Conducting Trial.....	27
E. Defaults.....	29
F. Removal.....	29

#### **8.4 Forms .....** 31

### **Section 9 - Marriages**

#### **9.1 Overview**

A. Authority.....	1
B. Requirements .....	1
C. Fees .....	2

## **Table of Contents (continued)**

### **Section 9 - Marriages (continued)**

<b>9.1</b>	<b>Overview (continued)</b>	
D.	Records .....	2
<b>9.2</b>	<b>Procedures</b>	
9.2.1	Checklist for Marriage Ceremony.....	5
9.2.2	Scripts.....	7